

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NOTICE OF PROPOSED LOCAL RULE CHANGE

AND OPPORTUNITY TO COMMENT

Pursuant to Local Rule 83.21, the United States District Court for the District of Columbia is publishing for comment proposed changes in the Local Rules.

The proposed rule changes which are set forth below will be adopted and become effective unless modified or withdrawn by the Court after receiving comments from organized bar associations, members of the bar and the public. Such comments must be made in writing within 45 days of the publication of the Notice and should be addressed to John Aldock, Chairman, Advisory Committee on Local Rules, Shea & Gardner, 1800 Massachusetts Ave., N.W., Washington, D.C. 20036 or to jaldock@sheagardner.com.

Nancy Mayer-Whittington, Clerk

(New language underlined; old language stricken)

LCvR 5.4

**CASES ASSIGNED TO CASE MANAGEMENT/ELECTRONIC CASE
FILING (CM/ECF) SYSTEM**

(a) DOCUMENTS TO BE FILED BY ELECTRONIC MEANS

Except as otherwise provided in this Rule 5.4, all documents to be filed with the Court must be filed by electronic means in a manner authorized by the Clerk.

COMMENT to LCvR 5.4(a): This Rule does not apply to cases that are filed in paper form and are not assigned to the CM/ECF system. Eventually, however, all new civil cases will be assigned to the CM/ECF system.

**(b) OBTAINING AND USING ELECTRONIC FILING PASSWORD;
SIGNATURE; CONSENT TO SERVICE BY ELECTRONIC MEANS**

- (1) An attorney must obtain a CM/ECF password from the Clerk in order to file documents with the Court or to receive copies of opinions and orders of the Court.
- (2) A pro se party may obtain a CM/ECF password from the Clerk with leave of Court. Whether leave of Court should be granted is within the discretion of the judge to whom the case is assigned. To obtain leave of Court, the pro se party must file a written motion entitled "Motion for CM/ECF Password," describing the party's access to the internet and confirming the capacity to file documents and receive the filings of other parties electronically and on a regular basis. If leave of Court is granted, the pro se party must complete the CM/ECF training provided by the Clerk to all electronic filers before the Clerk issues a CM/ECF password.
- (3) A CM/ECF password may be used only by the person to whom it is assigned, or, in the case of an attorney, by that attorney or an authorized employee or agent of that attorney's law office or organization.
- (4) The use of a CM/ECF password to login and submit documents creates an electronic record that operates and serves as the signature of the person to whom the password is assigned for all purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court.
- (5) The electronic filing of a document that contains a sworn declaration, verification, certificate, statement, oath or affidavit certifies that the original signed document is in the possession of the attorney or pro se party responsible for the filing and that it is available for review upon request by a party or by the Court.
- (6) An attorney or pro se party who obtains a CM/ECF password consents to electronic service of all documents, subsequent to the original complaint, that are filed by electronic means pursuant to F.R.Civ.P. 5(b)(2)(D). Such counsel and pro se parties are responsible for monitoring their e-mail accounts, and, upon receipt of notice of an electronic filing, for retrieving the noticed filing.

(c) FILING BY ELECTRONIC MEANS

- (1) The filing of any document electronically following procedures set forth in this Rule constitutes filing for all purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court.

- (2) A person filing a document by electronic means is responsible for insuring the accuracy of the official docket entry generated by the CM/ECF software.
- (3) Any document, order, or notice filed or docketed electronically by the Court or by the Clerk shall have the same binding authority as one filed on paper.

COMMENT TO LCvR 5.4(c)(3): An opinion, memorandum, order, judgment, default, or other notice issued electronically by the Court or by the Clerk bears an electronic "signature" and does not require a handwritten signature to be official and binding. Also, an order or notice (such as a minute entry or scheduling notice) entered on the docket without an attached document is official and binding.

(d) SERVICE

- (1) Electronic filing of any document operates to effect service of the document on counsel or pro se parties who have obtained CM/ECF passwords. Counsel or parties who have not yet obtained CM/ECF passwords must serve and be served as otherwise provided in F.R.Civ.P. 5(b).
- (2) The requirement of a certificate or other proof of service is satisfied by the automatic notice of filing sent by the CM/ECF software to counsel or pro se parties who have obtained CM/ECF passwords. A separate certificate or other proof of service showing that a paper copy was served on a party or counsel is required when that party or counsel does not receive electronic notification of filings.

(e) EXCEPTIONS TO REQUIREMENT OF ELECTRONIC FILING

- (1) Exhibits or attachments that (A) exceed 500 pages (including administrative records and records of state court proceedings); or (B) are not in a format that readily permits electronic filing, such as large maps, charts, video tapes, and similar materials; or (C) are illegible when scanned into electronic format; or (D) are filed under seal, may be filed in paper form. Documents or things filed pursuant to this subsection (e)(1), and in compliance with LCvR 5.1, must be served by mail or by hand delivery, unless counsel have otherwise agreed, and must be identified in an electronically filed notice of filing.
- (2) A motion pursuant to LCvR 5.1(j) for leave to file a document under seal shall be filed by electronic means, but sealed documents accompanying such a motion shall be filed in paper form together with the notice of filing required by subsection (e)(1).

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- (3) A party appearing pro se shall file documents in paper form with the Clerk and must be served with documents in paper form, unless the pro se party has obtained a CM/ECF password.

(f) PRIVACY REQUIREMENTS

The following personal identifiers shall be excluded, or redacted where inclusion is necessary, from all electronically filed documents unless otherwise ordered by the Court.

- (1) Social Security numbers. If an individual's Social Security number must be included in a pleading, only the last four digits of that number should be used.
- (2) Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- (3) Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used.
- (4) Financial account numbers. If a financial account number is relevant, only the last four digits should be used.

(g) INCORRECT FILINGS AND TECHNICAL DIFFICULTIES

- (1) The Clerk may direct an attorney or pro se party to re-file a document that has been incorrectly filed, or to correct an erroneous or inaccurate docket entry.
- (2) If an attorney or pro se party who has been given leave to file electronically presents a document for filing in paper form, the Clerk may direct the attorney or pro se party to file the document electronically or present it in a format compatible with CM/ECF filing. The document will be deemed filed on the date it was first presented for filing if electronically filed or presented in proper electronic format no later than the next business day.
- (3) The inability to complete an electronic filing because of technical problems may constitute ~~A~~cause for an order enlarging time or ~~A~~excusable neglect for the failure to act within the specified time, within the meaning of F.R.Civ.P. 6(b). Counsel or parties encountering technical problems with CM/ECF filing shall immediately notify a Clerk's Office employee of the problem by telephone and immediately send written confirmation of that notification to the Office of the Clerk. This Rule does not provide authority to extend statutory and jurisdictional time limits.

COMMENT to LCvR 5.4(g): Notice to the Clerk that technical problems interfered with electronic filing can provide a contemporaneous record in support of a party's motion under F.R.Civ.P. 6(b) for an order enlarging time. Only the Court, not the Clerk, may enlarge time. However, if the filing deadline is statutory and jurisdictional, electronic filers should take care not to wait until the last minute to file since not even technical difficulties will provide a means for the Court to extend the deadline.

LCvR 83.9
RENEWAL OF MEMBERSHIP

(c) FAILURE TO RENEW

An attorney who fails to file the required certifications and pay the renewal fee shall be provisionally removed from the list of members in good standing and pursuant to LCvR 83.2(a) shall not be permitted to practice before this Court until restored as a member in good standing. The name of the attorney shall be restored to the list of members in good standing upon filing of the required certificates and payment of the delinquent fee within five years after the due date. At the end of the five years from the due date, the name will be permanently removed from the roll, without prejudice to an application for admission as a new member.

COMMENT: This amendment is intended to clarify the status of anyone removed from the list of members in good standing. It makes clear that pursuant to LCvR 83.2 anyone who is not a member in good standing of the bar of this Court shall not be permitted to practice before the Court until restored to the bar as a member in good standing.

LCrR 57.21.1
RENEWAL OF MEMBERSHIP

(c) FAILURE TO RENEW

An attorney who fails to file the required certifications and pay the renewal fee shall be provisionally removed from the list of members in good standing and pursuant to LCrR 44.1(a) shall not be permitted to practice before this Court until restored as a member in good standing. The name of the attorney shall be restored to the list of members in good standing upon filing of the required certificates and payment of the delinquent fee within five years after the due date. At the end of the five years from the due date, the name will be permanently removed from the roll, without prejudice to an application for admission as a new member.

COMMENT: This amendment is intended to clarify the status of anyone removed from the list of members in good standing. It makes clear that pursuant to LCrR 44.1 anyone who is not a member in good standing of the bar of this Court shall not be permitted to practice before the Court until restored to the bar as a member in good standing.

January 15, 2003